IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

WP(C).No. 23131 of 2003(D)

PETITIONER:

M.D.SURENDRAN, S/O.M.DAMODARAN,
SELECTION GRADE LECTURER IN CHEMISTRY
(RETIRED FROM SREE NARAYANA COLLEGE, KOLLAM)
RESIDING AT "TEJUS", BOYS HIGH SCHOOL ROAD,
TRIPUNITHURA, ERNAKULAM DISTRICT.

BY ADV. SRI.M.V.THAMBAN

RESPONDENTS:

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1. THE PRINCIPAL, SREE NARAYANA COLLEGE,
KOLLAM.

2. DEPUTY DIRECTOR OF COLLEGIATE
EDUCATION, KOLLAM.

3. DIRECTOR OF COLLEGIATE EDUCATION,
THIRUVANANTHAPURAM.

4. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO THE GOVERNMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT.K.R.DEEPA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C) NO.23131/2003

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. TRUE COPY OF LETTER DATED 26-9-2002 ISSUED BY THE DIRECTOR.

EXT.P2. TRUE COPY OF REPRESENTATION DATED 24-11-2002 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.

EXT.P3. TRUE COPY OF JUDGMENT DATED 4-2-2003 IN O.P.NO.3859/2003-H OF THE HON'BLE HIGH COURT OF KERALA.

EXT.P4. TRUE COPY OF LETTER NO.PF-11(2)46417/2000/COLL.EDN. DATED 2-5-2003 ISSUED BY THE 3RD RESPONDENT.

EXT.P5. TRUE COPY OF STATEMENT PREPARED BY THE PETITIONER.

EXT.P6. TRUE COPY OF THE PF STATEMENT DATED 25-2-2000

EXT.P7. TRUE COPY OF THE LETTER DATED 9-6-2000 ISSUED BY THE PRINCIPAL

RESPONDENTS' EXHIBITS:

EXT.R2(a): TRUE COPY OF LR.NO.PF2(2)46417/2000 DATED 30-10-2003 ADDRESSED TO THE PETITIONER.

EXT.R2(b) TRUE COPY OF CALCULATION OF PF MISSING CREDIT OF THE PETITIONER.

/ TRUE COPY /

P.S.TO JUDGE

KURIAN JOSEPH, J.

W.P(C)No.23131 of 2003

Dated this the 7th day of February, 2007

JUDGMENT

The writ petition is filed with the following prayers:-

> i. to issue a writ in the nature of declaration that the petitioner is entitled to the PF balance due to him with interest @ 12% p.a calculated upto the date of actual payment and that the petitioner is entitled to the balance amounts stated in Ext.P5.
>
> ii. to issue a writ of mandamus or any other writ, or order or direction directing the respondents as follows:-
>
> > a) to produce a true and correct statement of PF accounts of the petitioner showing the annual contributions, interest accrued, withdrawals, payments made, balance etc.
> >
> > b) to direct the respondents 2 and 3 to pay the P.F balance of Rs.90,111/- and along with interest accrued from 1-4-03 till the actual date of payment.

The facts to the extent not in dispute are: The petitioner retired from service on 31-3-2000. To his credit Rs.3,26,935/- was available in the PF account. The same was authorised for payment only on 26-10-2002. The learned Government Pleader, referring to the counter affidavit, submits that only owing to the lapses on the part of the petitioner there was delay in processing the application. It is also submitted that after the processing, the

payments were made on priority basis. I am afraid these contentions cannot be appreciated. It is seen from Ext.P7 letter to the Principal of the College dated 9-6-2000 that the application, in any case, was submitted on 9-6-2000. Therefore, in any case, it cannot be disputed that the application was forwarded by the Principal on 9-6-2000. Therefore, the petitioner is certainly justified in claiming interest. However, even going by Ext.P7, the application to the Principal was forwarded only on 9-6-2000. Therefore, the liability of the petitioner for interest accrues only from 9-6-2000 till the same was authorised for payment, namely 26-10-2002. The interest at statutory rate available at the relevant time shall be calculated on Rs.3,26,935/- and the interest as above shall be disbursed within a period of two months from the date of receipt of a copy of this judgment. If any amounts have been paid in between the same can be deducted. If the payment as above is not made the petitioner is entitled to get interest at the rate of 12% from the date of retirement and the officers responsible for the delay shall be personally liable for the same.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.